

Part 3 Kidnapping, Trafficking, and Smuggling

76-5-301 Kidnapping.

- (1)
 - (a) As used in this section:
 - (i) "Against the will of an individual" includes without the consent of the legal guardian, caretaker, or custodian of an individual who is a dependent adult.
 - (ii) "Dependent adult" means the same as that term is defined in Section 76-5-111.
 - (iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of an individual:
 - (a) detains or restrains the individual for any substantial period of time;
 - (b) detains or restrains the individual in circumstances exposing the individual to risk of bodily injury;
 - (c) holds the individual in involuntary servitude;
 - (d) detains or restrains a minor without the consent of the minor's parent or legal guardian or the consent of a person acting in loco parentis; or
 - (e) moves the individual any substantial distance or across a state line.
- (3) A violation of Subsection (2) is a second degree felony.

Amended by Chapter 181, 2022 General Session

76-5-301.1 Child kidnapping.

- (1)
 - (a) As used in this section, "child" means an individual under 14 years old.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits child kidnapping if the actor intentionally or knowingly, without authority of law, and by any means and in any manner, seizes, confines, detains, or transports a child without the consent of the child's parent or guardian, or the consent of a person acting in loco parentis.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) An actor convicted of a violation of this section shall be sentenced to imprisonment of:
 - (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;
 - (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the child kidnapping the actor caused serious bodily injury to another; or
 - (c) life without parole, if the trier of fact finds that at the time of the commission of the child kidnapping the actor was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
 - (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or
 - (b) for purposes of Subsection (4)(a) or (b):

- (i) 10 years and which may be for life; or
- (ii) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(c).
- (7) Subsections (4)(b) and (4)(c) do not apply if the defendant was younger than 18 years old at the time of the offense.
- (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.
- (9) A violation of Section 76-5-303 is not a violation of this section.

Amended by Chapter 181, 2022 General Session

76-5-301.2 Parental kidnapping.

- (1)
 - (a) As used in this section:
 - (i) "Child" means an individual under 18 years old.
 - (ii) "Custody" means court-ordered physical custody of a child entered by a court.
 - (iii) "Parent" means an individual:
 - (A) recognized as a biological parent or adoptive parent; or
 - (B) that has established a parent-child relationship under Section 78B-15-201.
 - (iv) "Parent-time" means court-ordered parent-time or visitation entered by a court.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) A parent commits parental kidnapping of the parent's child if the parent:
 - (a) takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child;
 - (b) intends to interfere with the custody of the child; and
 - (c)
 - (i) has never had a right to physical custody of the child;
 - (ii) has never been granted parent-time with the child;
 - (iii) has had all rights to physical custody of the child terminated by a court; or
 - (iv) at the time of the parent's action under Subsection (2)(a), had parent-time with the child terminated or suspended by a court.
- (3)
 - (a) A violation of Subsection (2) is a third degree felony.
 - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if, during the course of parental kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state.
- (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of parental kidnapping that:
 - (a) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was:
 - (i) necessary to protect the child from imminent serious bodily injury, or death;
 - (ii) authorized by law; or
 - (iii) taken with the consent of:
 - (A) the individual entitled to custody of the child; or
 - (B) a custodian, guardian, caretaker, or other individual lawfully acting in place of the individual entitled to custody of the child; or
 - (b)
 - (i) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was necessary to protect the child from abuse, including sexual abuse; and

- (ii) before taking the action described in Subsection (2)(a), the parent reports to law enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).

Enacted by Chapter 125, 2023 General Session

76-5-302 Aggravated kidnapping.

- (1)
 - (a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:
 - (i) Section 76-5-301, kidnapping; or
 - (ii) Section 76-5-304, unlawful detention.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:
 - (a) uses or threatens to use a dangerous weapon; or
 - (b) acts with the intent to:
 - (i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;
 - (ii) facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;
 - (iii) hinder or delay the discovery of or reporting of a felony;
 - (iv) inflict bodily injury on or to terrorize the victim or another individual;
 - (v) interfere with the performance of any governmental or political function; or
 - (vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.
- (3)
 - (a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.
 - (b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony.
- (4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:
 - (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;
 - (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or
 - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
 - (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or
 - (b) for purposes of Subsection (4)(a) or (b):
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a defendant is sentenced under Subsection (4)(c).

- (7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the time of the offense.
- (8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session

76-5-303 Custodial interference.

- (1)
 - (a) As used in this section:
 - (i) "Child" means an individual under 18 years old.
 - (ii) "Custody" means court-ordered physical custody entered by a court of competent jurisdiction.
 - (iii) "Visitation" means court-ordered parent-time or visitation entered by a court of competent jurisdiction.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) An actor who is entitled to custody of a child commits custodial interference if, during a period of time when another individual is entitled to visitation of the child, the actor takes, entices, conceals, detains, or withholds the child from the individual entitled to visitation of the child, with the intent to interfere with the visitation of the child.
 - (b) An actor who is entitled to visitation of a child commits custodial interference if, during a period of time when the individual is not entitled to visitation of the child, the actor takes, entices, conceals, detains, or withholds the child from an individual who is entitled to custody of the child, with the intent to interfere with the custody of the child.
- (3)
 - (a) A violation of Subsection (2) is a class B misdemeanor.
 - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if the actor:
 - (i) commits custodial interference; and
 - (ii) has been convicted of custodial interference at least twice in the two-year period immediately preceding the day on which the commission of custodial interference described in Subsection (3)(b)(i) occurs.
 - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a felony of the third degree if, during the course of the custodial interference, the actor removes, causes the removal, or directs the removal of the child from the state.
- (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of custodial interference that:
 - (a) the action is consented to by the individual whose custody or visitation of the child was interfered with; or
 - (b)
 - (i) the action is based on a reasonable belief that the action is necessary to protect a child from abuse, including sexual abuse; and
 - (ii) before engaging in the action, the actor reports the actor's intention to engage in the action, and the basis for the belief described in Subsection (4)(b)(i), to the Division of Child and Family Services or law enforcement.

Amended by Chapter 181, 2022 General Session

76-5-303.5 Notification of conviction of custodial interference.

- (1) As used in this section:
 - (a)
 - (i) "Convicted" means a conviction by plea or verdict or adjudication in juvenile court of a crime or offense.
 - (ii) "Convicted" includes:
 - (A) a plea of guilty or guilty with a mental condition;
 - (B) a plea of no contest; and
 - (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) If an individual is convicted of custodial interference under Section 76-5-303, the court shall notify the Driver License Division, created in Section 53-3-103, of the conviction, and whether the conviction is for:
 - (a) a class B misdemeanor, under Subsection 76-5-303(3)(a);
 - (b) a class A misdemeanor, under Subsection 76-5-303(3)(b); or
 - (c) a felony, under Subsection 76-5-303(3)(c).

Amended by Chapter 184, 2023 General Session

76-5-304 Unlawful detention and unlawful detention of a minor.

- (1)
 - (a) As used in this section:
 - (i) Acting "against the will of an individual" includes acting without the consent of the legal guardian, caretaker, or custodian of an individual who is:
 - (A) a dependent adult; or
 - (B) a minor who is 14 or 15 years old.
 - (ii) "Dependent adult" means the same as that term is defined in Section 76-5-111.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) An actor commits unlawful detention if the actor intentionally or knowingly, without authority of law, and against the will of an individual, detains or restrains the individual.
 - (b) An actor commits unlawful detention of a minor if the actor is at least four or more years older than the minor, and intentionally or knowingly, without authority of law, and against the will of the minor, coerces or exerts influence over the minor with the intent to cause the minor to remain with the actor for an unreasonable period of time under the circumstances.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) If the conduct of the actor amounts to a violation under one of the following, the actor shall be charged with the violation and not under Subsection (2)(a) or (2)(b):
 - (a) kidnapping, as described in Section 76-5-301; or
 - (b) child kidnapping, as described in Section 76-5-301.1.

Amended by Chapter 181, 2022 General Session

76-5-305 Defenses.

- (1) It is a defense under this part that:
 - (a) the actor was acting under a reasonable belief that:

- (i) the conduct was necessary to protect any individual from imminent bodily injury or death; or
 - (ii) the detention or restraint was authorized by law; or
 - (b) the alleged victim is younger than 18 years old or is a dependent adult, as defined in Section 76-5-111, and the actor was acting under a reasonable belief that the custodian, guardian, caretaker, legal guardian, custodial parent, or person acting in loco parentis to the victim would, if present, have consented to the actor's conduct.
- (2) Subsection (1)(b) may not be used as a defense to conduct described in Section 76-5-308.5.

Amended by Chapter 181, 2022 General Session

76-5-307 Definitions.

As used in Sections 76-5-308 through 76-5-310.1 of this part:

- (1) "Child" means an individual younger than 18 years old.
- (2) "Commercial purpose" includes direct or indirect participation in or facilitation of the transportation of one or more individuals for the purpose of:
 - (a) charging or obtaining a fee for the transportation; or
 - (b) obtaining, exchanging, or receiving any thing or item of value or an attempt to conduct any of these activities.
- (3) "Facilitation" regarding transportation under Subsection (2) includes providing:
 - (a) travel arrangement services;
 - (b) payment for the costs of travel; or
 - (c) property that would advance an act of transportation, including a vehicle or other means of transportation, a weapon, false identification, and making lodging available, including by rent, lease, or sale.
- (4) "Family member" means an individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree.

Amended by Chapter 181, 2022 General Session

76-5-308 Human trafficking for labor.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor commits human trafficking for labor if the actor recruits, harbors, transports, obtains, patronizes, or solicits an individual for labor through the use of force, fraud, or coercion, which may include:
 - (a) threatening serious harm to, or physical restraint against, that individual or another individual;
 - (b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;
 - (c) abusing or threatening abuse of the law or legal process against the individual or another individual;
 - (d) using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
 - (e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or
 - (f) creating or exploiting a relationship where the individual is dependent upon the actor.

- (3) A violation of Subsection (2) is a second degree felony.
- (4) Human trafficking for labor includes any labor obtained through force, fraud, or coercion as described in Subsection (2).
- (5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Amended by Chapter 181, 2022 General Session

76-5-308.1 Human trafficking for sexual exploitation.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor commits human trafficking for sexual exploitation if the actor recruits, harbors, transports, obtains, patronizes, or solicits an individual for sexual exploitation through the use of force, fraud, or coercion, which may include:
 - (a) threatening serious harm to, or physical restraint against, that individual or another individual;
 - (b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;
 - (c) abusing or threatening abuse of the law or legal process against the individual or another individual;
 - (d) using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
 - (e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or
 - (f) creating or exploiting a relationship where the individual is dependent upon the actor.
- (3) A violation of Subsection (2) is a second degree felony.
- (4) Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):
 - (a) sexually explicit performance;
 - (b) prostitution;
 - (c) participation in the production of pornography;
 - (d) performance in strip clubs; and
 - (e) exotic dancing or display.
- (5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Enacted by Chapter 181, 2022 General Session

76-5-308.3 Human smuggling -- Penalty.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor commits human smuggling if the actor transports or procures the transportation for one or more individuals for a commercial purpose, knowing or having reason to know that the individual or individuals transported or to be transported are not:
 - (a) citizens of the United States;
 - (b) permanent resident aliens; or

- (c) otherwise lawfully in this state or entitled to be in this state.
- (3) A violation of Subsection (2) is a second degree felony.
- (4) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Enacted by Chapter 181, 2022 General Session

76-5-308.5 Human trafficking of a child -- Penalties.

- (1)
 - (a) As used in this section, "commercial sexual activity with a child" means any sexual act with a child, for which anything of value is given to or received by any person.
 - (b) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.
- (3) A violation of Subsection (2) is a first degree felony.
- (4)
 - (a) Human trafficking of a child for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.
 - (b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display as described in Section 76-5-308.1.
- (5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Amended by Chapter 181, 2022 General Session

76-5-309 Benefitting from trafficking and human smuggling -- Penalties.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of value from knowing participation in:
 - (a) human trafficking for labor in violation of Section 76-5-308;
 - (b) human smuggling in violation of Section 76-5-308.3;
 - (c) human trafficking of a child in violation of Section 76-5-308.5; and
 - (d) human trafficking for sexual exploitation in violation of Section 76-5-308.1.
- (3)
 - (a) A violation of Subsection (2)(a) or (2)(d) is a second degree felony.
 - (b) A violation of Subsection (2)(b) is a third degree felony.
 - (c) A violation of Subsection (2)(c) is a first degree felony.
- (4) An actor commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each individual who is smuggled or trafficked under Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, or 76-5-310.1.

Amended by Chapter 181, 2022 General Session

76-5-310 Aggravated human trafficking -- Penalties.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

- (2) An actor commits aggravated human trafficking for labor or sexual exploitation if, in the course of committing an offense under Section 76-5-308 or 76-5-308.1, the offense:
 - (a) results in the death of a trafficked individual;
 - (b) results in serious bodily injury of a trafficked individual;
 - (c) involves:
 - (i) rape under Section 76-5-402;
 - (ii) rape of a child under Section 76-5-402.1;
 - (iii) object rape under Section 76-5-402.2;
 - (iv) object rape of a child under Section 76-5-402.3;
 - (v) forcible sodomy under Section 76-5-403;
 - (vi) sodomy on a child under Section 76-5-403.1;
 - (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
 - (viii) aggravated sexual assault under Section 76-5-405;
 - (d) involves the trafficking of 10 or more individuals; or
 - (e) involves an individual trafficked for longer than 30 consecutive days.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) Aggravated human trafficking is a separate offense from any other crime committed in relationship to the commission of the offense.

Amended by Chapter 181, 2022 General Session

76-5-310.1 Aggravated human smuggling -- Penalties.

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor commits aggravated human smuggling if, in the course of committing an offense under Section 76-5-308.3, the offense:
 - (a) results in the death of a smuggled individual;
 - (b) results in serious bodily injury to a smuggled individual;
 - (c) involves the smuggling of a child and the child is not accompanied by a family member who is 18 years old or older;
 - (d) involves:
 - (i) rape under Section 76-5-402;
 - (ii) rape of a child under Section 76-5-402.1;
 - (iii) object rape under Section 76-5-402.2;
 - (iv) object rape of a child under Section 76-5-402.3;
 - (v) forcible sodomy under Section 76-5-403;
 - (vi) sodomy on a child under Section 76-5-403.1;
 - (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
 - (viii) aggravated sexual assault under Section 76-5-405; or
 - (e) involves the smuggling of 10 or more individuals.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) Aggravated human smuggling is a separate offense from any other crime committed in relationship to the offense.

Enacted by Chapter 181, 2022 General Session

76-5-311 Human trafficking of a vulnerable adult -- Penalties.

- (1)
 - (a) As used in this section:

- (i) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.
- (ii) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human trafficking of a vulnerable adult if the actor:
 - (a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or
 - (b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.
- (3) A violation of Subsection (2) is a first degree felony.
- (4)
 - (a) Human trafficking of a vulnerable adult for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.
 - (b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:
 - (i) sexually explicit performances;
 - (ii) prostitution;
 - (iii) participation in the production of pornography;
 - (iv) performance in a strip club; or
 - (v) exotic dancing or display.

Amended by Chapter 181, 2022 General Session